*Wheeling Bridge Co.* v. *Wheeling & Belmont Bridge Co.*, 34 W. Va. 155, 11 S. E. 1009. Thus one court has allowed a railroad station platform to be taken for a street under a general power. *State, New York & Long Branch R. Co.* v. *Drummond*, 46 N. J. L. 644. While another has reached the same result with respect to a school lot, although the use was somewhat impaired. *Inhabitants of Easthampton* v. *County Commissioners of Hampshire*, 154 Mass. 424, 28 N. E. 298. In view of such decisions it would seem that a contrary conclusion might well have resulted from a further consideration of the facts in the principal case.

ESTOPPEL — ESTOPPEL IN PAIS — WHETHER SOVEREIGN MAY BE ESTOPPED. — By an avulsion the state acquired whatever right it had to the land in controversy. The plaintiff subsequently held for over twenty years. During this time the state acquiesced in the plaintiff's possession as owner, and the plaintiff made costly improvements and paid the taxes levied by the state. The state thereafter made its first claim to the land. *Held*, that the state is estopped from asserting its claim. *State of Iowa* v. *Carr*, 191 Fed. 257 (C. C. A., Eighth Circ.).

For a discussion of the principles involved, see 19 HARV. L. REV. 126.

EVIDENCE — HEARSAY — PROOF OF RACE OF WITNESS'S PARENTS. — The defendant was indicted under a statute for selling liquor to A., a half-breed Indian. A. was allowed to testify that his father was a Portuguese and his mother a full-blooded Indian. *Held*, that this is not error. *State* v. *Rackich*, 119 Pac. 843 (Wash.).

It is well settled that a witness may testify to his own age. *Commonwealth* v. *Stevenson*, 142 Mass. 466, 8 N. E. 341; *People* v. *Ratz*, 115 Cal. 132, 46 Pac. 915. While often such testimony is hearsay, strictly speaking, the courts have held it admissible, probably because the information derived from family talks, birthdays, and other sources amounts practically to knowledge of the fact. *State* v. *Miller*, 71 Kan. 200, 80 Pac. 51; *Loose* v. *State*, 120 Wis. 115, 97 N. W. 526. See 6 HARV. L. REV. 449. Where it is based on personal observation of events and circumstances of daily life, it is not technically hearsay. *State* v. *Marshall*, 137 Mo. 463, 39 S. W. 63. For the same practical reasons a witness is permitted to testify to the age of members of his family. *Hancock* v. *Supreme Council Catholic Benevolent Legion*, 69 N. J. L. 308, 55 Atl. 246. *Contra, Rogers* v. *De Bardeleben Coal & Iron Co.*, 97 Ala. 154, 12 So. 81. It is submitted that the same considerations apply to testimony as to race. It seems a preferable rule to admit it subject to the discretion of the court in determining adequacy of knowledge and means of observation, rather than to exclude it generally on the ground of hearsay. If it is not admissible as a statement of the witness's own knowledge, it could probably be admitted, under proper conditions, as a statement of the family reputation. See 2 WIGMORE, EVIDENCE, §§ 1500, 1502. But *cf. Wright* v. *Commonwealth*, 72 S. W. 340. And some courts have allowed it to be shown by proof of general reputation in the neighborhood. *Vaughan* v. *Phebe*, Mart. & Y. (Tenn.) 4; *Gilliand* v. *Board of Education*, 141 N. C. 482, 54 S. E. 413. See 2 WIGMORE, EVIDENCE, § 1605.

FRAUDULENT CONVEYANCES — RIGHTS OF CREDITORS — CONVEYANCE OF PARTNERSHIP BUSINESS FRAUDULENT AS TO CREDITORS OF ONE PARTNER. — The business of a partnership composed of two members was by them conveyed to the defendant corporation with intent to defeat the creditors of one of the partners, who afterwards was adjudicated a bankrupt. The fraudulent nature of the conveyance was known to all the parties to it. *Held*, that the conveyance may be set aside by the trustee of the bankrupt partner. *Trustee of Gonville* v. *Patent Caramel Co.*, 105 L. T. 831 (Eng., K. B. D. in Bankruptcy, Nov. 14, 1911).

A conveyance made with intent to defraud creditors to one having notice is voidable by the creditors. STAT. 13 ELIZ. c. 5. The fact that the debtor joins with a solvent person in making the conveyance does not render it immune from attack. *Campbell* v. *Davis*, 85 Ala. 56, 4 So. 140. But though voidable by creditors, the conveyance is otherwise valid. So it has been held that the grantee is entitled to any surplus remaining after the satisfaction of the claims of the creditors. *Burtch* v. *Elliott*, 3 Ind. 99; *Allen* v. *Trustees of Ashley School Fund*, 102 Mass. 262. And a conveyance by co-tenants has been held voidable only as to the share of the co-tenant whose creditors it was intended to defeat. *Campbell* v. *Davis*, *supra*. In England a partnership is not recognized by the law as an entity distinct from the members composing it; the partners are, collectively, the firm. See POLLOCK, LAW OF PARTNERSHIP, 6 ed., 20–21. In the principal case, then, the conveyance should be treated as voidable except in so far as it conveyed the interest of the non-bankrupt partner. This interest should remain in the grantee.

HUSBAND AND WIFE — RIGHTS OF HUSBAND AGAINST WIFE AND IN HER PROPERTY — RIGHT OF HUSBAND TO ALIMONY APART FROM DIVORCE PROCEEDINGS. — The plaintiff, being indigent and unable to support himself, prayed for a decree requiring his wife, who owned considerable property, to pay him alimony. *Held*, that the decree be granted. *Hagert* v. *Hagert*, 133 N. W. 1035 (N. D.). See NOTES, p. 556.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — EMPLOYER'S LIABILITY FOR DEATH. — A locomotive fireman, while engaged in interstate commerce in New York, was killed through the negligence of the railroad company. His widow, as administratrix, sued the company under the Federal Employers' Liability Act, and accepted the defendant's offer of judgment. The intestate's father claimed one-half of the amount recovered under the New York Statute of Distribution. *Held*, that he is entitled to it. *Matter of Taylor*, 204 N. Y. 135.

The majority of the court hold that in so far as the federal act attempts to give an action for death to the administratrix it is unconstitutional, on the ground that Congress's power to regulate interstate commerce with respect to any particular employee must end with his death. That Congress has the power to regulate the liability of master to servant in interstate commerce can no longer be denied. *Mondou* v. *New York, N. H. & H. R. Co.*, 32 Sup. Ct. 169. The denial, in the Safety Appliance Act, of the assumption of risk doctrine has been held to apply to an action for death. *Mobile, J. & K. C. R. Co.* v. *Bromberg*, 141 Ala. 258, 37 So. 395. There the power of Congress has certainly been effective beyond the death of the employee. If Congress can render the railroad liable at all it must be able to specify to whom. Liability for injuries not causing death, and no liability for fatal ones, would be a singular result. At all events, inasmuch as the original recovery was under the federal statute, the distribution should be under it also. *Matter of Degaramo*, 86 Hun (N. Y.) 390, 33 N. Y. Supp. 502. See *Dennick* v. *Railroad Co.*, 103 U. S. 11, 20.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — FEDERAL EMPLOYERS' LIABILITY ACT OF 1908. — The Federal Employers' Liability Act of April 22, 1908, provides that "every common carrier by railroad, while engaging in commerce between any of the states . . . shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce . . . for such injury . . . resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier . . ." *Held*, that the statute is constitutional, though it applies to the negligence of employees not engaged in interstate commerce. *Second Employers' Liability Cases*, 223 U. S. 1, 32 Sup. Ct. 169. See NOTES, p. 548.